

1-1 By: Blanco (Senate Sponsor - Zaffirini) H.B. No. 1043
 1-2 (In the Senate - Received from the House April 24, 2017;
 1-3 May 2, 2017, read first time and referred to Committee on State
 1-4 Affairs; May 12, 2017, reported favorably by the following vote:
 1-5 Yeas 9, Nays 0; May 12, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to a court order authorizing temporary care of a minor
 1-20 child.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle A, Title 2, Family Code, is amended by
 1-23 adding Chapter 35 to read as follows:

1-24 CHAPTER 35. TEMPORARY AUTHORIZATION FOR CARE OF MINOR CHILD

1-25 Sec. 35.001. APPLICABILITY. This chapter applies to a
 1-26 person whose relationship to a child would make the person eligible
 1-27 to consent to treatment under Section 32.001 or eligible to enter an
 1-28 authorization agreement under Section 34.001.

1-29 Sec. 35.002. TEMPORARY AUTHORIZATION. A person described
 1-30 by Section 35.001 may seek a court order for temporary
 1-31 authorization for care of a child by filing a petition in the
 1-32 district court in the county in which the person resides if:

1-33 (1) the child has resided with the person for at least
 1-34 the 30 days preceding the date the petition was filed; and

1-35 (2) the person does not have an authorization
 1-36 agreement under Chapter 34 or other signed, written documentation
 1-37 from a parent, conservator, or guardian that enables the person to
 1-38 provide necessary care for the child.

1-39 Sec. 35.003. PETITION FOR TEMPORARY AUTHORIZATION FOR CARE
 1-40 OF CHILD. (a) A petition for temporary authorization for care of a
 1-41 child must:

1-42 (1) be styled "ex parte" and be in the name of the
 1-43 child;

1-44 (2) be verified by the petitioner;

1-45 (3) state:

1-46 (A) the name, date of birth, and current physical
 1-47 address of the child;

1-48 (B) the name, date of birth, and current physical
 1-49 address of the petitioner; and

1-50 (C) the name and, if known, the current physical
 1-51 and mailing addresses of the child's parents, conservators, or
 1-52 guardians;

1-53 (4) describe the status and location of any court
 1-54 proceeding in this or another state with respect to the child;

1-55 (5) describe the petitioner's relationship to the
 1-56 child;

1-57 (6) provide the dates during the preceding 12 months
 1-58 that the child has resided with the petitioner;

1-59 (7) describe any service or action that the petitioner
 1-60 is unable to obtain or undertake on behalf of the child without
 1-61 authorization from the court;

2-1 (8) state any reason that the petitioner is unable to
 2-2 obtain signed, written documentation from a parent, conservator, or
 2-3 guardian of the child;

2-4 (9) contain a statement of the period for which the
 2-5 petitioner is requesting temporary authorization; and

2-6 (10) contain a statement of any reason supporting the
 2-7 request for the temporary authorization.

2-8 (b) If the petition identifies a court proceeding with
 2-9 respect to the child under Subsection (a)(4), the petitioner shall
 2-10 submit a copy of any court order that designates a conservator or
 2-11 guardian of the child.

2-12 Sec. 35.004. NOTICE; HEARING. (a) On receipt of the
 2-13 petition, the court shall set a hearing.

2-14 (b) A copy of the petition and notice of the hearing shall be
 2-15 delivered to the parent, conservator, or guardian of the child by
 2-16 personal service or by certified mail, return receipt requested, at
 2-17 the last known address of the parent, conservator, or guardian.

2-18 (c) Proof of service under Subsection (b) must be filed with
 2-19 the court at least three days before the date of the hearing.

2-20 Sec. 35.005. ORDER FOR TEMPORARY AUTHORIZATION. (a) At the
 2-21 hearing on the petition, the court may hear evidence relating to the
 2-22 child's need for care by the petitioner, any other matter raised in
 2-23 the petition, and any objection or other testimony of the child's
 2-24 parent, conservator, or guardian.

2-25 (b) The court shall award temporary authorization for care
 2-26 of the child to the petitioner if the court finds it is necessary to
 2-27 the child's welfare and no objection is made by the child's parent,
 2-28 conservator, or guardian. If an objection is made, the court shall
 2-29 dismiss the petition without prejudice.

2-30 (c) The court shall grant the petition for temporary
 2-31 authorization only if the court finds by a preponderance of the
 2-32 evidence that the child does not have a parent, conservator,
 2-33 guardian, or other legal representative available to give the
 2-34 necessary consent.

2-35 (d) The order granting temporary authorization under this
 2-36 chapter expires on the first anniversary of the date of issuance or
 2-37 at an earlier date determined by the court. The order may authorize
 2-38 the petitioner to:

2-39 (1) consent to medical, dental, psychological, and
 2-40 surgical treatment and immunization of the child;

2-41 (2) execute any consent or authorization for the
 2-42 release of information as required by law relating to the treatment
 2-43 or immunization under Subdivision (1);

2-44 (3) obtain and maintain any public benefit for the
 2-45 child;

2-46 (4) enroll the child in a day-care program, preschool,
 2-47 or public or private primary or secondary school;

2-48 (5) authorize the child to participate in
 2-49 age-appropriate extracurricular, civic, social, or recreational
 2-50 activities, including athletic activities; and

2-51 (6) authorize or consent to any other care for the
 2-52 child essential to the child's welfare.

2-53 (e) An order granting temporary authorization under this
 2-54 chapter must state:

2-55 (1) the name and date of birth of the person with
 2-56 temporary authorization to care for the child;

2-57 (2) the specific areas of authorization granted to the
 2-58 person;

2-59 (3) that the order does not supersede any rights of a
 2-60 parent, conservator, or guardian as provided by court order; and

2-61 (4) the expiration date of the temporary authorization
 2-62 order.

2-63 (f) A copy of an order for temporary authorization must:

2-64 (1) be filed under the cause number in any court that
 2-65 has rendered a conservatorship or guardian order regarding the
 2-66 child; and

2-67 (2) be sent to the last known address of the child's
 2-68 parent, conservator, or guardian.

2-69 Sec. 35.006. RENEWAL OR TERMINATION OF TEMPORARY

3-1 AUTHORIZATION. (a) A temporary authorization order may be renewed
3-2 by court order for a period of not more than one year on a showing by
3-3 the petitioner of a continuing need for the order.

3-4 (b) At any time, the petitioner or the child's parent,
3-5 conservator, or guardian may request the court to terminate the
3-6 order. The court shall terminate the order on finding that there is
3-7 no longer a need for the order.

3-8 Sec. 35.007. EFFECT OF TEMPORARY AUTHORIZATION. (a) A
3-9 person who relies in good faith on a temporary authorization order
3-10 under this chapter is not subject to:

3-11 (1) civil or criminal liability to any person; or

3-12 (2) professional disciplinary action.

3-13 (b) A temporary authorization order does not affect the
3-14 rights of the child's parent, conservator, or guardian regarding
3-15 the care, custody, and control of the child, and does not establish
3-16 legal custody of the child.

3-17 (c) A temporary authorization order does not confer or
3-18 affect standing or a right of intervention in any proceeding under
3-19 Title 5.

3-20 (d) An order under this chapter is not a child custody
3-21 determination and does not create a court of continuing, exclusive
3-22 jurisdiction under Title 5.

3-23 SECTION 2. This Act takes effect immediately if it receives
3-24 a vote of two-thirds of all the members elected to each house, as
3-25 provided by Section 39, Article III, Texas Constitution. If this
3-26 Act does not receive the vote necessary for immediate effect, this
3-27 Act takes effect September 1, 2017.

3-28 * * * * *